

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890

ACTION ID No. 200310613

May 30, 2003

PUBLIC NOTICE

THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT), DIVISION OF HIGHWAYS, 113 Airport Drive, Suite 100, Edenton, North Carolina 27932 has applied for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act TO DISCHARGE DREDGED OR FILL MATERIAL INTO 5.37 ACRES OF DEPARTMENT OF THE ARMY JURISDICTIONAL WATERS (ATLANTIC OCEAN), FOR THE NOURISHMENT OF APPROXIMATELY 2000 LINEAR FEET OF BEACH TO ASSIST IN SAFEGUARDING NC 12 FROM POTENTIAL WASH OUT DURING STORM EVENTS WITHIN THE PROJECT AREA.

BACKGROUND:

Historically, there has been a chain of minor sand dunes located between the eastern edge of NC Highway 12 and the beach in the Town of Kitty Hawk. Over time, beach erosion has decreased the size and significance of these dunes to where they no longer protect segments of NC 12 from overwash, flooding, and the deposition of sand during storm events. The segment of NC 12 most affected by beach erosion measures approximately 1,300 linear feet and is located between Starfish Lane to the north and the Kitty Hawk Trailer Park to the south. The sand dunes have eroded away in this area and there is virtually a flat beach between NC 12 and the Atlantic Ocean. NC 12 was undermined and partially collapsed during a northeastern storm event the weekend of April 20 – 21, 2003. NCDOT was issued a Corps of Engineers permit on May 1, 2003 and a CAMA permit on May 2, 2003, to construct an emergency primary dune and place sandbags along the highway just seaward of existing sandbags that were already in place. NCDOT is working now to construct the emergency primary dune. NCDOT was also issued a variance from the Division of Coastal Management to temporarily install a sheet pile structure along the edge of the highway landward of the existing sandbags. NCDOT has chosen not to construct the sheet pile structure at this time.

PROJECT DESCRIPTION:

The following description of the work is taken from data provided by the applicant and from observations made during onsite inspections by a representative of the Corps of Engineers. Plans submitted with the application show that the NCDOT proposes to discharge beach compatible sand obtained from an upland source. NCDOT has identified three commercial sand

pits in Dare and Currituck County and is currently analyzing the material for compatibility with beach sand in the project area. The compatibility report will be forwarded to the proper agencies as soon as it is completed. It is estimated that the project will require between 80,000 to 90,000 cubic yards of sand. The placement of sand will extend 200 feet from the centerline of NC 12 into the Atlantic Ocean for a distance of 2000 feet. The placement of sand will extend an approximate average of 142 feet below the high tide line and total approximately 54,667 cubic yards of material. NCDOT will truck the material from an upland source and push the material seaward of high tide with the use of dump trucks, excavators, bulldozers and backhoes. A portion (approximately 700 linear feet) of the proposed project area is on private property and NCDOT is submitting information to these property owners and coordinating with them prior to project initiation. NCDOT has recognized that their proposed project will occur during the Sea Turtle moratorium of May 1 – November 15 and is committed to measures to prevent impacts to sea turtles. NCDOT has stated they will initiate the following to prevent impacts to turtles: a) NCDOT will have an observer on the project at all times. b) The observer will survey the project area each day from the beginning of the project to the end of the project and 100 feet beyond these limits. c) NCDOT will try to get local turtle watch groups to help in the observation of the project area. d) NCDOT will commit to not working at night. e) In the event that a sea turtle comes within the project area, all work will immediately stop and the USFWS will be notified immediately.

Plans showing the work are included with this public notice. The plans can also be reviewed at the Washington Regulatory Field Office, U.S. Army Corps of Engineers, 107 Union Drive, Suite 200, Washington, North Carolina 27889.

This proposal shall be reviewed for the applicability of other actions by North Carolina agencies such as:

- a. The issuance of a Water Quality Certification under Section 401 of the Clean Water Act by the North Carolina Division of Water Quality (NCDWQ).
- b. The issuance of a permit to dredge and/or fill under North Carolina General Statute 113-229 by the North Carolina Division of Coastal Management (NCDCM).
- c. The issuance of a permit under the North Carolina Coastal Area Management Act (CAMA) by the North Carolina Division of Coastal Management (NCDCM) or their delegates.
- d. The issuance of an easement to fill or otherwise occupy State-Owned submerged land under North Carolina General Statute 143-341(4), 146-6, 146-11, and 146-12 by the North Carolina Department of Administration (NCDA and the North Carolina Council of State.
- e. The approval of an Erosion and Sedimentation control Plan by the Land Quality.

Section, North Carolina Division of Land Resources (NCDLR), pursuant to the State Sedimentation Pollution Control Act of 1973 (NC G.S. 113 a-50-66).

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No DA permit will be issued until a State coordinated viewpoint is received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (DWQ) has determined the applicability of a Water Quality Certification as required by PL 92-500.

This application is being considered pursuant to Section 10 of the River and Harbor Act of 1899 (U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein, and this site is not registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. Presently, unknown archeological, scientific, prehistoric, or historical data may be lost or destroyed by work under the requested permit.

Based upon available information, the proposed activity will be constructed in an area where potential habitat may exist for the loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) sea turtles. Currently, the project area does not contain suitable nesting habitat due to erosion and the location of the existing highway. These species are federally listed as endangered or threatened pursuant to the Endangered Species Act of 1973. The applicant (NCDOT) is committed to implementing appropriate measures to prevent impacts to sea turtles.

Based upon available information, the District Engineer has determined that the proposed action would not adversely impact Essential Fish Habitat or associated fisheries managed by the South Atlantic or Mid-Atlantic Fishery Management Councils or the National Marine Fisheries Service (50 CFR Part 600).

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors which may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values

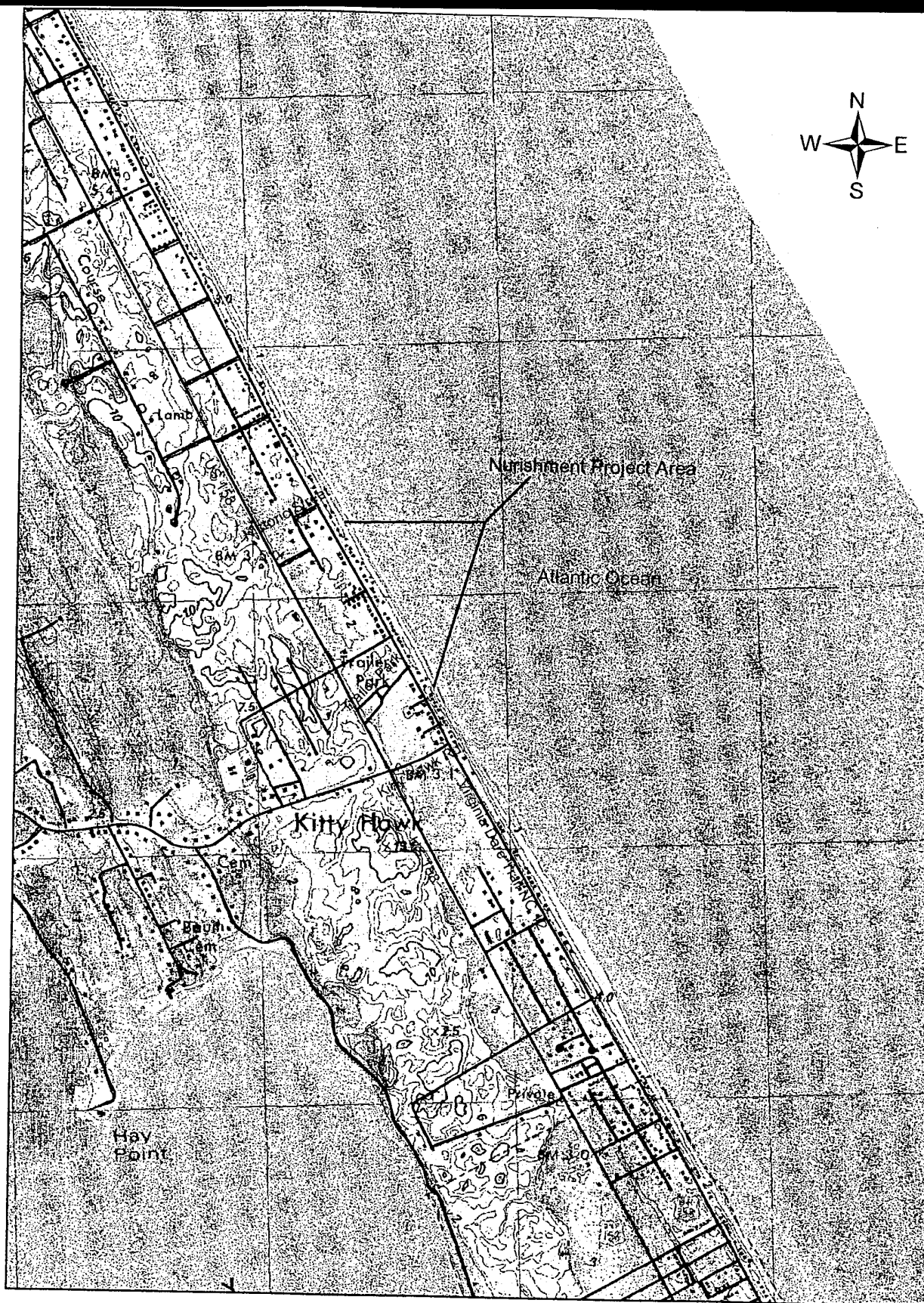
(in accordance with Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

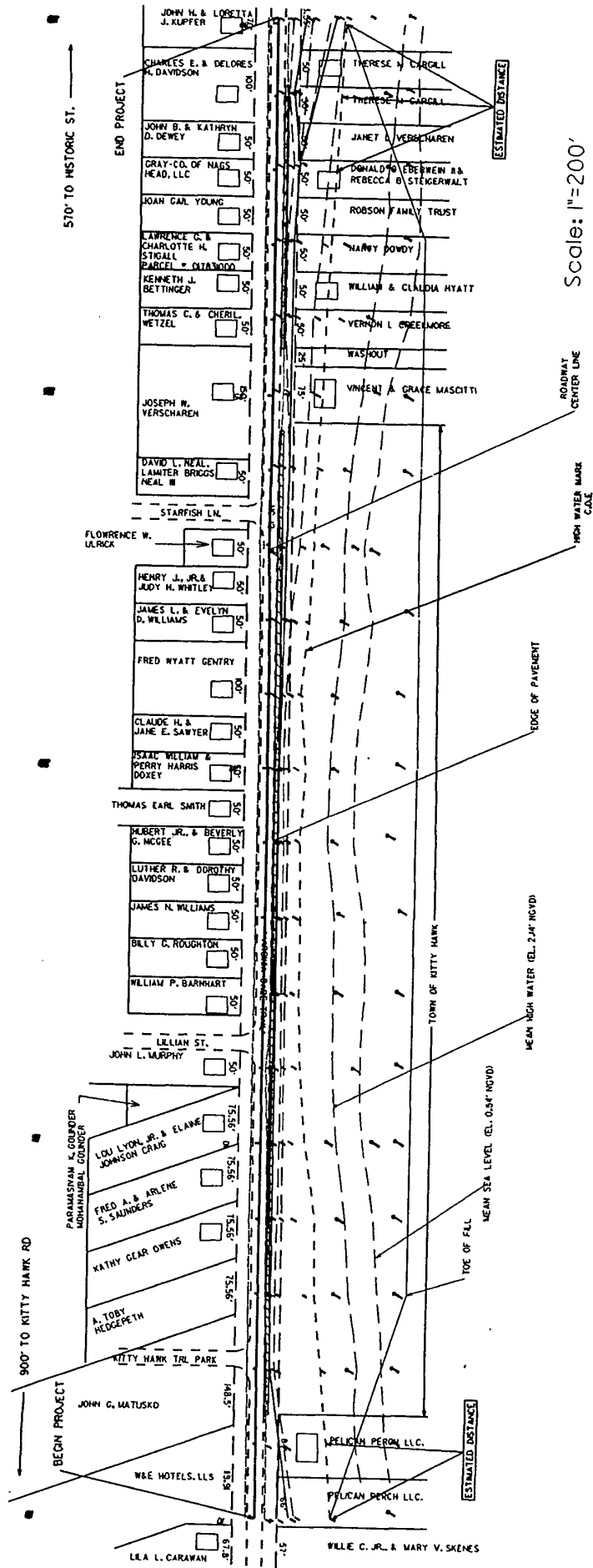
Generally, the decision whether to issue this DA permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the DA permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Wetlands/401 Unit, NCDWQ, 2321 Crabtree Boulevard, Raleigh, North Carolina 27604-2260. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: Mr. Bill Biddlecome, Washington Regulatory Field Office, Post Office Box 1000, Washington, North Carolina 27889-1000, until 4:15 p.m., June 30, 2003.

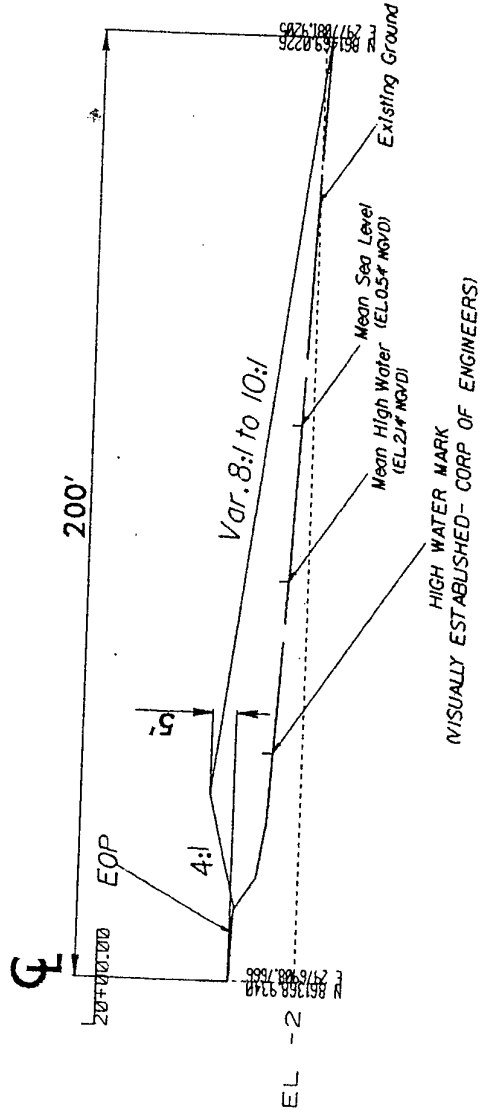


0 1,000 2,000 4,000 Feet



Scale: 1"=200'

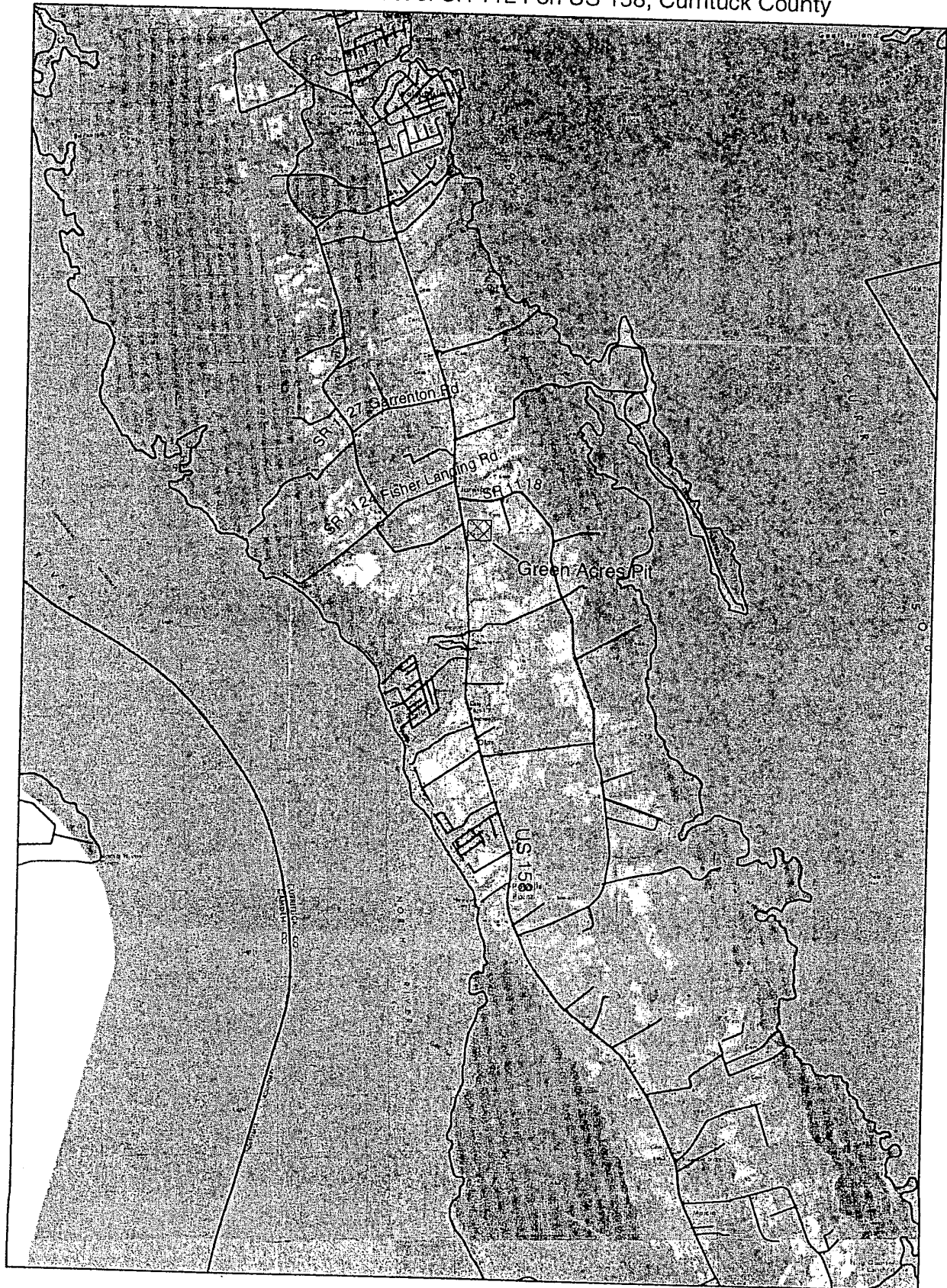
PROJECT REFERENCE NO.	SHEET NO.
DATE	BY
DESIGNED BY	
CHECKED BY	
APPROVED BY	
<div style="border: 1px solid black; padding: 2px; display: inline-block;"> PRELIMINARY PLANS <small>NOT TO BE USED FOR CONSTRUCTION</small> </div>	



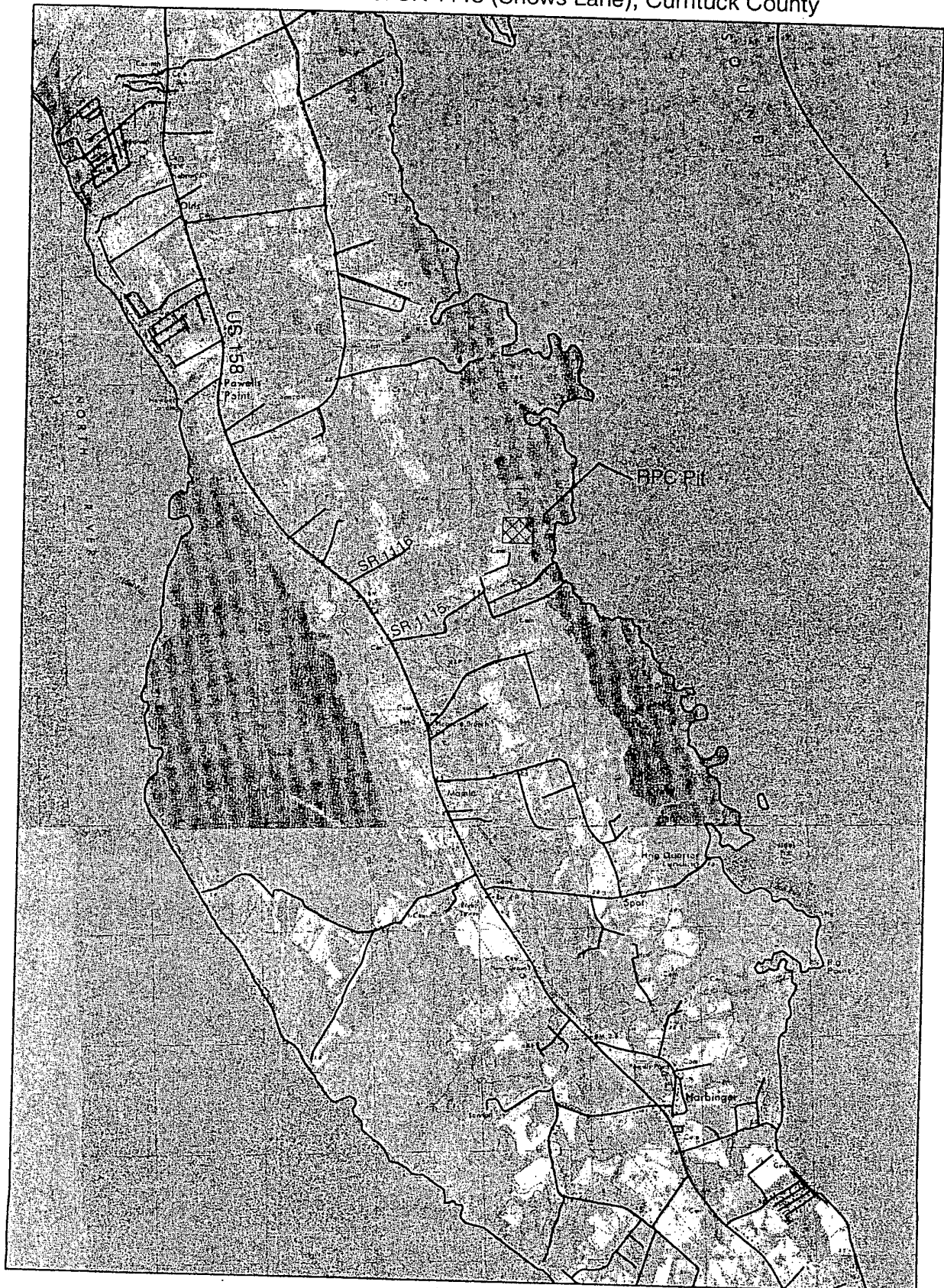
Typical Section
NC 12 Kitty Hawk

1" = 20'

Green Acres Pit
Contact Jeff Newbern 252-202-1028
Located 0.35 miles east of SR 1124 on US 158, Currituck County

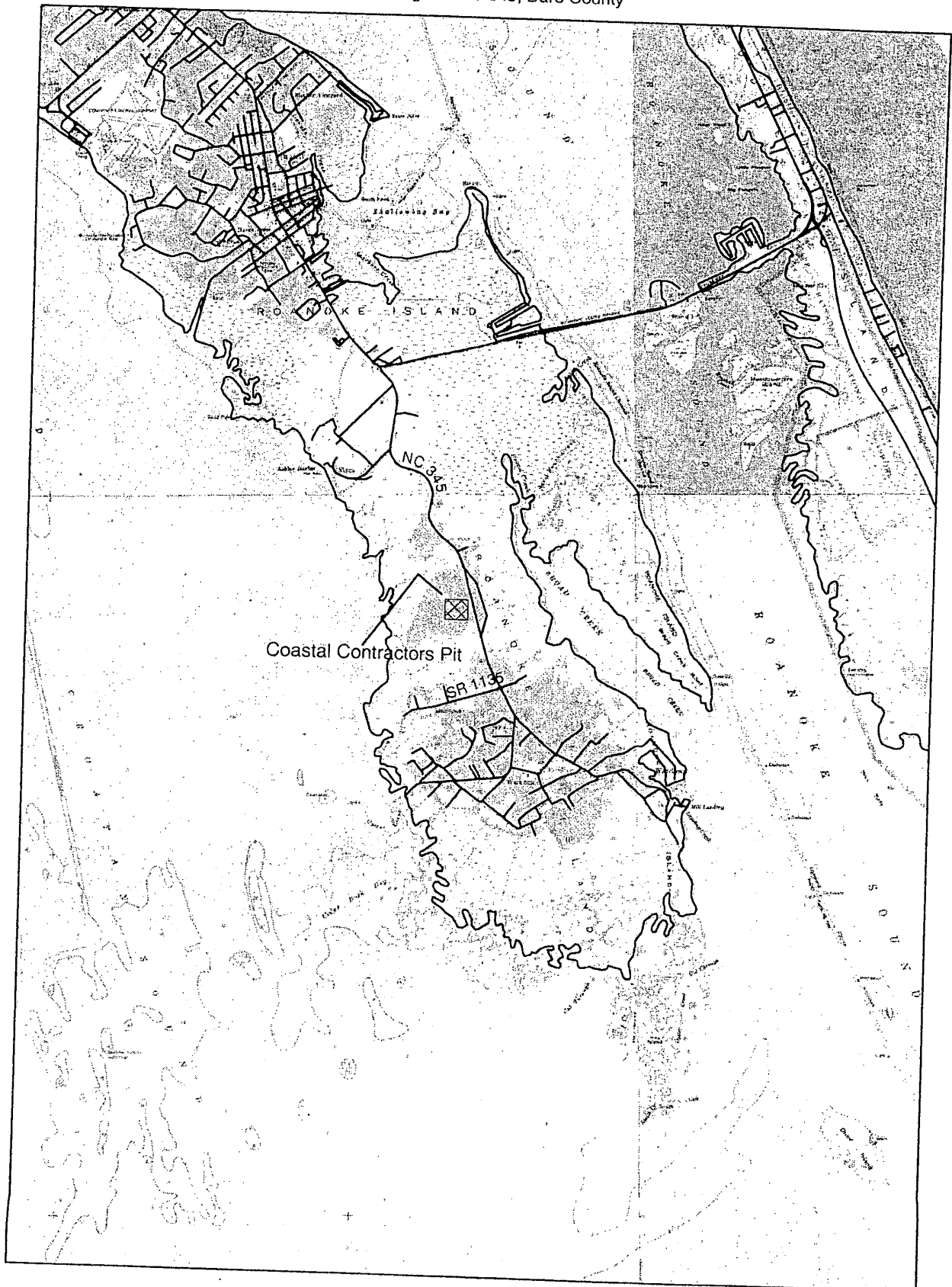


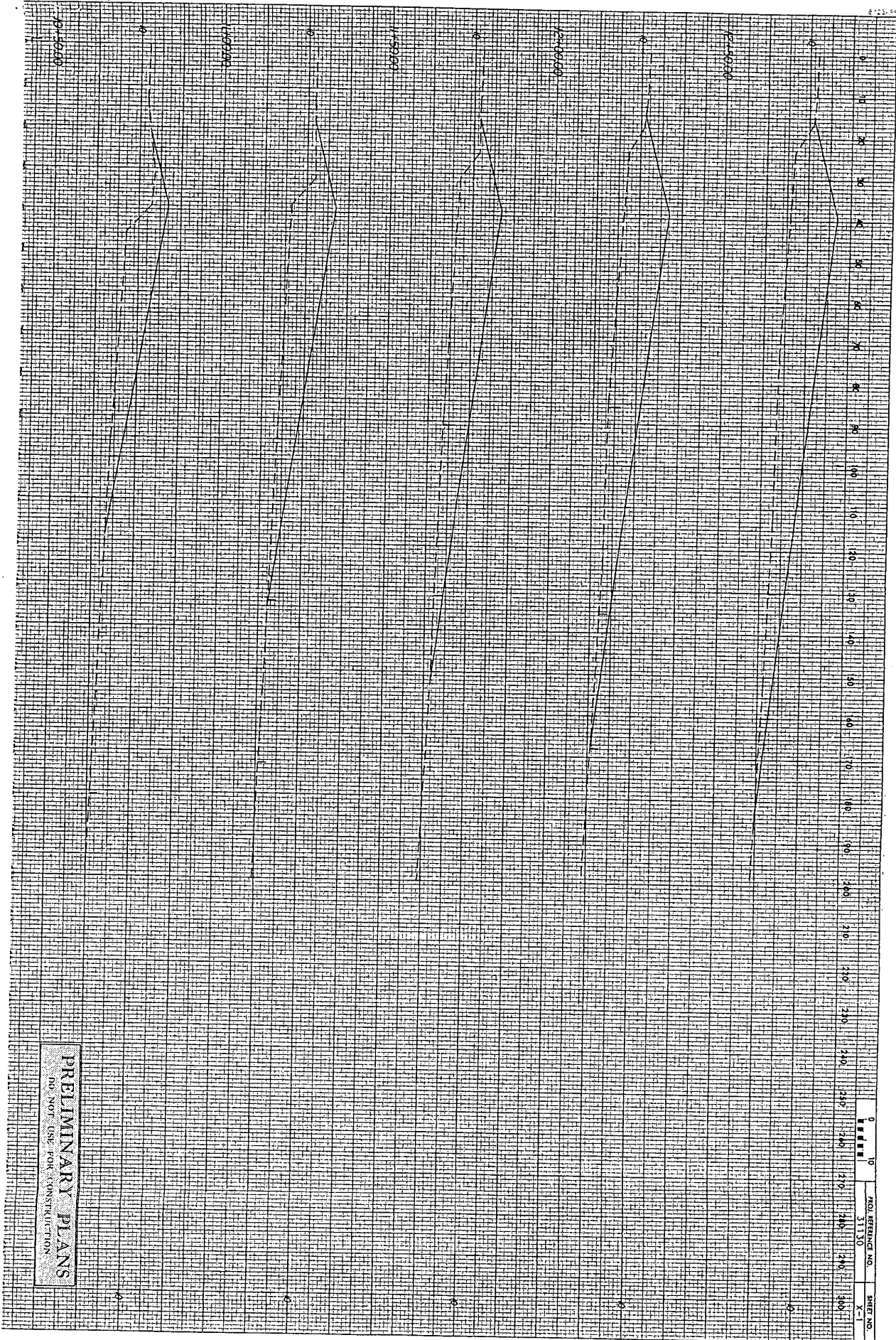
RPC Pit
Contact Rob Parker or Bob Banach 252-261-3336
Located at the end of SR 1115 (Snows Lane), Currituck County



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Coastal Contractors Pit
Contact Rex Tillet 252-473-4700.
Located 0.7 miles N of SR 1135 Baumtown Rd.
on the right of NC 345, Dare County





PRELIMINARY PLANS

DO NOT USE FOR CONSTRUCTION

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11/17/2013

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